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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91228162
Party	Defendant /Timothy James Shandonay/
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Date	07/11/2016
Attachments	Answer - HUGGIES SUPREME .pdf(99974 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 86/807423
Filed on November 3, 2015
Published in the *Official Gazette* on April 5, 2016

Kimberly-Clark Worldwide, Inc.,

Opposer,

v.

Timothy James Shandonay,
d/b/a Cotter & Shandonay,

Applicant.

Opposition No. 91228162

Mark: HUGGIES SUPREME

ANSWER AND AFFIRMATIVE DEFENSES

Timothy James Shandonay, d/b/a Cotter & Shandonay (“Applicant”), by and through its counsel, hereby answers the Notice of Opposition by addressing each allegation and stating affirmative defenses.

Answering the preamble of the Notice of Opposition, Applicant is without knowledge or information sufficient to admit or deny Kimberly-Clark Worldwide, Inc.’s (“Opposer”) place of incorporation or its principal place of business, and its claim of damage, and on that basis denies such allegations. Answering the second part of the preamble, Applicant hereby confirms it is the current owner of the above-referenced application for HUGGIES SUPREME (the “Application”).

ANSWER TO NOTICE OF OPPOSITION

1. Answering the allegations of Paragraph 1 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 1, and on that basis, denies the allegations.

2. Answering the allegations of Paragraph 2 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 2, and on that basis, denies the allegations.

3. Answering the allegations of Paragraph 3 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 3, and on that basis, denies the allegations.

4. Answering the allegations of Paragraph 4 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 4, and on that basis, denies the allegations.

5. Answering the allegations of Paragraph 5 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 5, and on that basis, denies the allegations.

6. Answering the allegations of Paragraph 6 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 6, and on that basis, denies the allegations.

7. The registrations listed in Paragraph 7 of the Notice of Opposition, on file with the United States Patent and Trademark Office (USPTO) speak for themselves. Except as specifically admitted herein, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 7, and on that basis, denies the allegations.

8. Answering the allegations of Paragraph 8 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 8, and on that basis, denies the allegations.

9. Answering the allegations of Paragraph 9 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 9, and on that basis, denies the allegations.

10. Applicant denies the allegations contained in Paragraph 10 of the Notice of Opposition.

11. The allegations in Paragraph 11 are admitted.

12. The allegations in Paragraph 12 are admitted.

13. Applicant admits the Application was published for opposition in the *Official Gazette* on April 5, 2016, and that Opposer was allowed until May 5, 2016, to file its Notice of Opposition. However, based solely on the allegations contained in Paragraph 13, Applicant would deny that the Notice of Opposition was timely filed, as it was filed after May 5, 2016. Despite Opposer's error in documenting the procedural history of this matter, as a showing of good faith, Applicant admits that the Notice of Opposition was timely filed based on the 30-day extension of time to file granted by the Trademark Trial and Appeal Board on May 4, 2016.

14. Applicant admits that it sought to register the HUGGIES SUPREME mark for use in connection with "sex dolls." Except as specifically admitted herein, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 14, and on that basis, denies the allegations.

15. The allegations in Paragraph 15 are admitted.

16. Applicant denies the allegations contained in Paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations contained in Paragraph 17 of the Notice of Opposition.

COUNT I: CLAIM FOR RELIEF UNDER 15 U.S.C. 1052 - DILUTION

18. Applicant restates its answers to Paragraphs 1 through 17 of the Notice of Opposition as though fully set forth herein.

19. The allegations in Paragraph 19 are admitted.

20. The registrations referenced in Paragraph 20 of the Notice of Opposition, on file with the USPTO, speak for themselves. Except as specifically admitted herein, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 20, and on that basis, denies the allegations.

21. The documents referenced in Paragraph 21 of the Notice of Opposition, on file with the USPTO, speak for themselves. Applicant denies that Opposer's trademark is or has ever become famous. Except as specifically admitted or denied herein, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 21, and on that basis, denies the allegations.

22. Applicant denies each and every allegation contained in Paragraph 22, of the Notice of Opposition.

23. Applicant denies each and every allegation contained in Paragraph 23, of the Notice of Opposition.

**COUNT II: CLAIM FOR RELIEF UNDER 15 U.S.C. § 1052(d) – LIKELIHOOD OF
CONFUSION**

24. Applicant restates its answers to Paragraphs 1 through 23 of the Notice of Opposition as though fully set forth herein.

25. Answering the allegations of Paragraph 25 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 25, and on that basis, denies the allegations.

26. Applicant admits that it seeks to register HUGGIES SUPREME. Except as specifically admitted herein, Applicant denies the allegations contained in Paragraph 26 of the Notice of Opposition.

27. Applicant denies the allegations contained in Paragraph 27 of the Notice of Opposition.

28. Applicant denies the allegations contained in Paragraph 28 of the Notice of Opposition.

29. Applicant denies the allegations contained in Paragraph 29 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Applicant asserts the following affirmative defenses without conceding that it has the burden of proof or burden of producing evidence with respect to any of these issues.

First Affirmative Defense

There is no likelihood of confusion, mistake, or deception because, *inter alia*, the Mark and the trademarks of Opposer are not confusingly similar.

Second Affirmative Defense

There is no dilution, impairment, or harm to a famous trademark because, *inter alia*, Opposer's trademarks are not famous.

Third Affirmative Defense

Opposer lacks standing to bring this opposition.

Third Affirmative Defense

Applicant's acts are privileged and lawful.

Fourth Affirmative Defense

Applicant hereby gives notice that it reserves all rights to assert additional defenses that are now not known but may later become known through discovery or other means.

WHEREFORE, Applicant respectfully requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

Respectfully Submitted,

Dated: July 11, 16

BRAND & BRANCH LLP

By: /Shabnam Malek/

Shabnam Malek, Esq.

Attorneys for Applicant
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of July 2016, a true and correct copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served upon Opposer by U.S. First Class Mail in an envelope, postage pre-paid, addressed as follows:

Donna F. Schmitt, Esq.
Jennifer Joekel, Esq.

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/Melissa Hooks/
Melissa Hooks